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RS PA-1997-2581-38

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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THE OFFICE OF THE FIRE MARSHAL OF THE :  
COUNTY OF NASSAU, ON BEHALF OF THE :  
COUNTY OF NASSAU, :

Plaintiff, :

- against - :

00 CV-7200 (JS)

UNITED STATES DEPARTMENT OF :  
TRANSPORTATION and RODNEY SLATER, :  
SECRETARY OF TRANSPORTATION, :

Defendants.

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**COUNTER-STATEMENT PURSUANT TO LOCAL CIVIL RULE 56.1**

Plaintiff, the Office of the Fire Marshal of the County of Nassau, on behalf of the County of Nassau ("Fire Marshal"), by its attorneys, Farrell Fritz, P.C., respectfully submits the following counter-statement to the April 20, 2001 Local Rule 56.1 statement filed by defendants ("Defendants' Statement"):

1. Paragraph 4 of Defendants' Statement provides that "[i]n order to obtain or renew a permit, the vehicle owner must make an appointment to have its truck inspected." However, the Administrative Record contains evidence to the contrary. (84, 85). Plaintiff will establish, through the contents of the Administrative Record and otherwise, that it has accommodated reasonable requests for inspections.

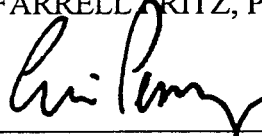
2. Paragraph 5 of Defendants' Statement provides that "[t]here is no evidence in the record that the Fire Marshal has ever conducted an inspection 'on demand,' without a pre-scheduled appointment." Plaintiff will establish, through the contents of the Administrative Record (84, 85) and otherwise, that the Fire Marshal has conducted inspections on demand.

3. Paragraph 21 of Defendants' Statement states that the DOT "found that Nassau County is not able to conduct inspections 'on demand' . . . ." In fact, the DOT stated that "the County does not appear to be able to conduct inspections and issue permits 'on demand.' (391).

Dated: Uniondale, New York  
May 1, 2001

FARRELL FRITZ, P.C.

By:



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